

HOUSE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 38

AN ACT

2 To amend chapters 196 and 640, RSMo, by
3 adding thereto twelve new sections relating
4 to biotechnology.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
6 AS FOLLOWS:

7 Section A. Chapters 196 and 640, RSMo, are amended by
8 adding thereto twelve new sections, to be known as sections
9 196.1100, 196.1103, 196.1106, 196.1109, 196.1112, 196.1115,
10 196.1118, 196.1121, 196.1124, 196.1127, 196.1130, and 640.845, to
11 read as follows:

12 196.1100. 1. There is hereby established in the state
13 treasury the "Life Sciences Research Trust Fund" to be held
14 separate and apart from all other public moneys and funds of the
15 state, including but not limited to the tobacco securitization
16 settlement trust fund established in section 8.550, RSMo. The
17 state treasurer shall deposit into the fund twenty-five percent

1 of all moneys received from the master settlement agreement, as
2 defined in section 196.1000, beginning in fiscal year 2007 and in
3 perpetuity thereafter. Moneys in the fund shall not be subject
4 to appropriation for purposes other than those provided in
5 sections 196.1100 to 196.1130. All moneys in the fund shall be
6 used for the purposes of sections 196.1100 to 196.1130 only.
7 Notwithstanding the provisions of section 33.080, RSMo, to the
8 contrary, the moneys in the fund shall not revert to the credit
9 of general revenue at the end of the biennium.

10 2. Moneys in the life sciences research trust fund shall be
11 used strategically, in cooperation with other governmental and
12 not-for-profit private entities to enhance the capacity of the
13 state of Missouri's ability to perform research to better serve
14 the health and welfare of the residents of the state of Missouri
15 as a center of life sciences research and development by building
16 on the success of research institutions located in Missouri,
17 creating in and attracting to Missouri new research and
18 development institutions, commercializing the life sciences
19 technologies developed by such institutions, and enhancing their
20 capacity to carry out their respective missions.

21 196.1103. The management, governance, and control of moneys
22 appropriated from the life sciences research trust fund shall be
23 vested in the "Life Sciences Research Board" which is hereby
24 created in the office of administration as a type III division

1 and which shall consist of seven members. The following
2 provisions shall apply to the life sciences research board and
3 its members:

4 (1) Each member shall be appointed by the governor with the
5 advice and consent of the senate pursuant to the procedures
6 herein set forth for a term of four years; except that, of the
7 initial members of the board appointed, three shall be appointed
8 for two-year terms and four shall be appointed to four-year
9 terms;

10 (2) The members of the board shall be generally familiar
11 with the life sciences and current research trends and
12 developments with either technical or scientific expertise in
13 life sciences and with an understanding of the application of the
14 results of life sciences research. The appointment of a person
15 to the life sciences research committee created by Executive
16 Order 01-10 issued by the governor on July 23, 2002, shall not
17 disqualify a person from serving as a member, either
18 contemporaneously or later, on the life sciences research board;

19 (3) No member of the life sciences research board shall
20 serve more than two consecutive full four-year terms;

21 (4) The members of the life sciences research board shall
22 receive no salary or other compensation for their services as a
23 member of the board, but shall receive reimbursement for their
24 actual and necessary expenses incurred in performance of their

1 duties as members of the board.

2 196.1106. Centers for life sciences research shall be
3 established and shall be subject to the following provisions:

4 (1) A "center for excellence for life sciences research"
5 means a system or regional consortium of public and private not-
6 for-profit academic, research, or health care institutions or
7 organizations engaged in competitive research in targeted fields
8 consistent with the strategic purposes of life sciences research
9 as provided in sections 196.1100 to 196.1130;

10 (2) The life sciences research board shall monitor and
11 adopt such rules as are necessary to assure quality and
12 accountability in the operation of the centers for excellence for
13 life sciences research;

14 (3) One St. Louis area center for excellence may be
15 established within the geographical area encompassing the City of
16 St. Louis and St. Louis, St. Charles, Jefferson, and Franklin
17 counties. If any part of a municipality is located within any
18 one such county and also encompasses a part of another county in
19 this state, the entire area encompassed within the city limits of
20 such municipality shall be a part of the geographical area of the
21 St. Louis area center for excellence;

22 (4) One Kansas City area center for excellence may be
23 established within the geographical area encompassing Jackson,
24 Clay, Andrew, Buchanan, and Platte counties. If any part of a

1 municipality is located within any one such county and also
2 encompasses a part of another county in this state, the entire
3 area encompassed within the city limits of such municipality
4 shall be a part of the geographical area of the Kansas City area
5 center for excellence;

6 (5) One Springfield center for excellence may be
7 established within the geographical area encompassing Greene,
8 Christian, and Webster counties;

9 (6) A Missouri statewide center for excellence may be
10 established that shall encompass the institutions, agricultural
11 research centers dedicated to the development of plant-made
12 pharmaceuticals, and campuses within the University of Missouri
13 system and those regions of Missouri not encompassed within
14 another center for excellence; provided that the University of
15 Missouri-Kansas City and the University of Missouri-St. Louis
16 shall participate in the centers for excellence in their
17 respective geographical regions;

18 (7) The life sciences research board shall receive and
19 review suggestions for the formation and composition of the
20 initial centers for excellence. After receiving and reviewing
21 such suggestions, the life sciences research board shall
22 determine the initial composition, and shall consider and approve
23 the organizational plan and structure of the St. Louis area,
24 Kansas City area, Springfield area, and Missouri statewide

1 centers for excellence;

2 (8) Before any center for excellence is considered to be a
3 center for excellence for life sciences research under sections
4 196.1100 to 196.1130, its composition and organizational
5 structure shall be approved by the life sciences research board;

6 (9) Any center for excellence for life sciences research
7 that is established within a geographical area specified in
8 sections 196.1100 to 196.1130 shall be comprised of a consortium
9 of public and private not-for-profit academic, research, or
10 health care institutions or organizations that have collectively
11 at least fifteen million dollars in annual research expenditures
12 in the life sciences, including a collective minimum of two
13 million dollars in basic research in life sciences;

14 (10) Each center for excellence for life sciences research
15 shall appoint a screening committee. The centers, through their
16 screening committees, shall solicit, collect, prioritize, and
17 forward to the life sciences research board proposed research
18 initiatives for consideration for funding by the board. Members
19 of each screening committee shall generally be familiar with the
20 life sciences and current trends and developments with either
21 technical or scientific expertise in the life sciences with an
22 understanding of life sciences and with an understanding of the
23 application of the results of life sciences research. No member
24 of a screening committee shall be employed by any public or

1 private entity eligible to receive financial support from the
2 life sciences research trust fund; and

3 (11) The centers for excellence for life sciences research
4 shall have any and all powers attendant to carrying out the
5 operations that are not contrary to the provisions of sections
6 196.1100 to 196.1130 or any rules, guidelines, or decisions
7 adopted by the life sciences research board.

8 196.1109. All moneys that are appropriated by the general
9 assembly from the life sciences research trust fund shall be
10 appropriated to the life sciences research board to increase the
11 capacity for quality of life sciences research at public and
12 private not-for-profit institutions in the state of Missouri and
13 to thereby:

14 (1) Improve the quantity and quality of life sciences
15 research at public and private not-for-profit institutions,
16 including but not limited to basic research (including the
17 discovery of new knowledge), translational research (including
18 translating knowledge into a usable form), and clinical research
19 (including the literal application of a therapy or intervention
20 to determine its efficacy), including but not limited to health
21 research in human development and aging, cancer, endocrine,
22 cardiovascular, neurological, pulmonary, and infectious disease,
23 and plant sciences, including but not limited to nutrition and
24 food safety; and

1 (2) Enhance technology transfer and technology
2 commercialization derived from research at public and private
3 not-for-profit institutions within the centers for excellence.
4 For purposes of sections 196.1100 to 196.1130, "technology
5 transfer and technology commercialization" includes stages of the
6 regular business cycle occurring after research and development
7 of a life science technology, including but not limited to
8 reduction to practice, proof of concept, and achieving federal
9 Food and Drug Administration, United States Department of
10 Agriculture, or other regulatory requirements in addition to the
11 definition in section 348.251, RSMo.
12 Funds received by the board may be used for purposes authorized
13 in sections 196.1100 to 196.1130 and shall be subject to the
14 restrictions of sections 196.1100 to 196.1130, including but not
15 limited to the costs of personnel, supplies, equipment, and
16 renovation or construction of physical facilities; provided that
17 in any single fiscal year no more than ten percent of the moneys
18 appropriated shall be used for the construction of physical
19 facilities and further provided that in any fiscal year eighty
20 percent of the moneys shall be appropriated to build research
21 capacity at public and private not-for-profit institutions and
22 twenty percent of the moneys shall be appropriated for grants to
23 public or private not-for-profit institutions to promote life
24 science technology transfer and technology commercialization. Of

1 the moneys appropriated to build research capacity, twenty
2 percent of the moneys shall be appropriated to promote the
3 development of research of tobacco-related illnesses.

4 196.1112. In determining projects to authorize, the life
5 sciences research board shall consider those proposals endorsed
6 by a center for excellence, subject to a process of peer review
7 conducted under the auspices of the board, and shall also
8 consider the potential of any proposal to bring both health and
9 economic benefits to the people of Missouri. Specifically, at
10 least eighty percent of the moneys that are appropriated to the
11 board in each fiscal year shall be distributed to public and
12 private not-for-profit institutions or organizations whose
13 programs and proposals have been recommended by a center for
14 excellence that meets the requirements set forth in subdivisions
15 (8) and (9) of section 196.1106. Collectively, the institutions
16 or organizations within a single center for excellence shall
17 receive in a single fiscal year no more than fifty percent of the
18 moneys appropriated to the board during such fiscal year. No
19 single institution or organization shall receive in any
20 consecutive three-fiscal-year period more than forty percent of
21 the moneys appropriated to the board during such three-fiscal-
22 year period.

23 196.1115. 1. The moneys appropriated to the life sciences
24 research board that are not distributed by the board in any

1 fiscal year to a center for excellence or a center for excellence
2 endorsed program pursuant to section 196.1112, if any, shall be
3 held in reserve by the board or shall be awarded on the basis of
4 peer review panel recommendations for capacity building
5 initiatives proposed by public and private not-for-profit
6 academic, research, or health care institutions or organizations,
7 or individuals engaged in competitive research in targeted fields
8 consistent with the provisions of sections 196.1100 to 196.1130.

9 2. The life sciences research board may, in view of the
10 limitations expressed in section 196.1130:

11 (1) Award and enter into grants or contracts relating to
12 increasing Missouri's research capacity at public or private not-
13 for-profit institutions;

14 (2) Make provision for peer review panels to recommend and
15 review research projects;

16 (3) Contract for administrative and support services;

17 (4) Lease or acquire facilities and equipment;

18 (5) Employ administrative staff; and

19 (6) Receive, retain, hold, invest, disburse or administer
20 any moneys that it receives from appropriations or from any other
21 source.

22 3. The life sciences research board shall utilize as much
23 of the moneys as reasonably possible for building capacity at
24 public and private not-for-profit institutions to do research

1 rather than for administrative expenses. The board shall not in
2 any fiscal year expend more than two percent of the total moneys
3 appropriated to it and of the moneys that it has in reserve or
4 has received from other sources for its own administrative
5 expenses; provided, however, that the general assembly by
6 appropriation from the life sciences research trust fund may
7 authorize a limited amount of additional moneys to be expended
8 for administrative costs.

9 196.1118. The life sciences research board shall make
10 provision for and secure the state auditor or outside public
11 accounting firm an annual audit of its financial affairs and the
12 moneys expended from the life sciences research trust fund. Such
13 audit shall be performed on a fiscal year basis and the cost of
14 such audit shall not be considered as an administrative expense
15 for purposes of subsection 3 of section 196.1115. The board
16 shall make copies of each audit available to the public. Every
17 three years the board, with the assistance of its staff or
18 independent contractors as determined by the board, shall prepare
19 a comprehensive report assessing the work and progress of the
20 life sciences research program. Such assessment report shall
21 analyze the impact of the board's programs, grants, and contracts
22 performed, shall be provided to the governor and the general
23 assembly, and shall be available to the public. The cost of such
24 assessment report shall not be considered an administrative

1 expense for purposes of subsection 3 of section 196.1115.

2 196.1121. 1. Grant or contract awards made with moneys
3 appropriated from the life sciences research trust fund shall
4 provide for the reimbursement of costs. Whether reimbursement of
5 specific costs is allowed depends on the application of a four-
6 part test balancing which shall include:

7 (1) The reasonableness of the cost;

8 (2) The connection to the grant or contract;

9 (3) The consistency demonstrated in assigning costs to the
10 grant or contract; and

11 (4) Conformance with the specific terms and conditions of
12 the award or contract.

13 The life sciences research board may from time to time issue
14 rules and guidelines consistent with such four-part test and
15 provide grant and contract recipients with a list or other
16 explanation of regularly permitted costs.

17 2. Grant and contract recipients shall preserve research
18 freedom, ensure timely disclosure of their research findings to
19 the scientific community, including through publications and
20 presentations at scientific meetings, and promote utilization,
21 commercialization, and public availability of their inventions
22 and other intellectual property developed as a general
23 institutional policy. Institutions or organizations receiving
24 grant or contract awards shall retain all right, title, and

1 interest, including all intellectual property rights, in and to
2 any and all inventions, ideas, data, improvements, modifications,
3 know-how, creations, copyrightable material, trade secrets,
4 methods, processes, discoveries, and derivatives, regardless of
5 patentability, that are made in the performance of work under a
6 grant award. The life sciences research board shall adopt
7 reasonable rules to ensure that any such intellectual property
8 rights are utilized reasonably and in a manner that is in the
9 public interest.

10 196.1124. No member of the life sciences research board
11 shall be employed by any public or private not-for-profit entity
12 entitled to receive financial support from the life sciences
13 research trust fund, or participate in the making of any decision
14 by the board to make any grant to the board member, any person
15 who is related to the board member within the fourth degree of
16 consanguinity or affinity, any public entity for which the board
17 member serves as an officer, director, or other member of the
18 entity's governing body, or any private entity for which the
19 board member or the member's spouse is employed, serves as an
20 officer, director, or other member of the entity's governing
21 body. The board may from time to time issue conflict of interest
22 guidelines and requirements with respect to the administration of
23 the life sciences research program, to govern the actions of its
24 employees and agents, and to implement the provisions of section

1 196.1124.

2 196.1127. 1. The moneys appropriated to the life sciences
3 research board pursuant to sections 196.1100 to 196.1124 shall be
4 subject to the provisions of this section.

5 2. As used in this section, the following terms shall mean:

6 (1) "Abortion services", include performing, inducing, or
7 assisting with abortions, as defined in section 188.015, RSMo, or
8 encouraging patients to have abortions, referring patients for
9 abortions not necessary to save the life of the mother, or
10 development of drugs, chemicals, or devices intended to be used
11 to induce an abortion;

12 (2) "Child", a human being recognized as a minor pursuant
13 to the laws of this state, including if in vivo, an unborn child
14 as defined in section 188.015, RSMo, and if in vitro, a human
15 being at any of the stages of biological development of an unborn
16 child from conception or inception onward;

17 (3) "Conception", the same meaning as such term is defined
18 in section 188.015, RSMo;

19 (4) "Facilities and administrative costs", those costs that
20 are incurred for common or joint objectives and therefore cannot
21 be identified readily and specifically with a particular research
22 project or any other institutional activity;

23 (5) "Human cloning", the creation of a human being by any
24 means other than by the fertilization of an oocyte of a human

1 female by a sperm of a human male;

2 (6) "Prohibited human research", research in a research
3 project in which there is the taking or utilization of the
4 organs, tissues, or cellular material of:

5 (a) A deceased child, unless consent is given by the
6 parents in a manner provided in sections 194.210 to 194.290,
7 RSMo, relating to anatomical gifts, and neither parent caused the
8 death of such child or consented to another person causing the
9 death of such child;

10 (b) A living child, when the intended or likely result of
11 such taking or utilization is to kill or cause harm to the
12 health, safety, or welfare of such child, or when the purpose is
13 to target such child for possible destruction in the future;

14 (7) "Public funds", include:

15 (a) Any moneys received or controlled by the state of
16 Missouri or any official, department, division, agency, or
17 political subdivision thereof, including but not limited to
18 moneys derived from federal, state, or local taxes, gifts, or
19 grants from any source, settlements of any claims or causes of
20 action, public or private, bond proceeds, federal grants or
21 payments, or intergovernmental transfers;

22 (b) Any moneys received or controlled by an official,
23 department, division, or agency of state government or any
24 political subdivision thereof, or to any person or entity

1 pursuant to appropriation by the general assembly or governing
2 body of any political subdivision of this state;

3 (8) "Research project", research proposed to be funded by
4 an award of public funds conducted under the auspices of the
5 entity or entities that applied for and received such award,
6 regardless of whether the research is funded in whole or in part
7 by such award. Such research shall include basic research,
8 including the discovery of new knowledge; translational research,
9 including translational knowledge in a usable form; and clinical
10 research, including but not limited to health research in human
11 development and aging, cancer, endocrine, cardiovascular,
12 neurological, pulmonary, and infectious disease.

13 3. Public funds shall not be expended, paid, or granted to
14 or on behalf of an existing or proposed research project that
15 involves abortion services, human cloning, or prohibited human
16 research. A research project that receives an award of public
17 funds shall not share costs with another research project,
18 person, or entity not eligible to receive public funds pursuant
19 to this subsection; provided that a research project that
20 receives an award of public funds may pay a pro rata share of
21 facilities and administrative costs determined in the award of
22 public funds according to standards that ensure that public funds
23 do not in any way subsidize facilities and administrative costs
24 of other research projects, persons, or entities not eligible to

1 receive public funds pursuant to this subsection. The
2 application for an award of public funds shall set forth the
3 proposed rates of pro rata cost reimbursement and shall provide
4 supporting data and rationale for such rates. All applicants for
5 and recipients of awards of public funds shall comply with the
6 cost accounting principles set forth in Part 9905 of Title 48 of
7 the Code of Federal Regulations, or successor regulations, in
8 connection with the application for and administration of the
9 research project. All moneys derived from an award of public
10 funds shall be expended only by checks, drafts, or electronic
11 transfers using a separate accounting process maintained for each
12 research project. No moneys derived from an award of public
13 funds shall be used to cover costs for any other research project
14 or to any other person or entity. No moneys derived from an
15 award of public funds shall be passed through to any other
16 research project, person, or entity unless included in the
17 original application for the award of public funds or in
18 subsequent amendments or requests to use separate contractors. A
19 research project that receives an award of public funds shall
20 maintain financial records that demonstrate strict compliance
21 with this subsection. Any audit conducted pursuant to any grant
22 or contract awarding public funds shall also certify whether
23 there is compliance with this subsection and shall note any
24 noncompliance as a material audit finding.

1 4. The provisions of this section shall inure to the
2 benefit of all residents of this state. Any taxpayer of this
3 state or any political subdivision of this state shall have
4 standing to bring suit against the state of Missouri or any
5 official, department, division, agency, or political subdivision
6 of this state, and any recipient of public funds who or which is
7 in violation of this subsection in any circuit court with
8 jurisdiction to enforce the provisions of this section.

9 5. This section shall not be construed to permit or make
10 lawful any conduct that is otherwise unlawful pursuant to the
11 laws of this state.

12 6. Any provision of this section is not severable from any
13 appropriation subject to this section or any application declared
14 by any court to be subject to this section. If any provision of
15 this section is found to be invalid or unconstitutional, any
16 appropriation subject to this section or any appropriation
17 declared by any court to be subject to this section shall be
18 void, invalid, and unenforceable.

19 196.1130. No rule or portion of a rule promulgated pursuant
20 to the authority of sections 196.1100 to 196.1130 shall become
21 effective unless it has been promulgated pursuant to chapter 536,
22 RSMo.

23 640.845. 1. There is hereby established the "Missouri
24 Biomass Technology Commission". The commission shall consist of

1 seven members, including the director of the department of
2 agriculture, the director of the department of economic
3 development, the director of the department of natural resources
4 and four members with backgrounds in alternative energy research
5 or business, which shall be appointed by the governor with the
6 advice and consent of the senate.

7 2. Members of the commission shall not be compensated for
8 their services, but they shall be reimbursed for actual and
9 necessary expenses incurred in the performance of their duties.
10 The members of the commission shall meet within ten days of their
11 creation and elect one member as chairman and another as vice
12 chairman. Such officers shall serve for terms of three years.

13 3. The specific duties of the Missouri biomass technology
14 commission shall include, but not be limited to, the following:

15 (1) Collect data for the development and use of alternative
16 energy as a source of electricity;

17 (2) Evaluate existing incentives and programs that
18 encourage the development and use of alternative energy;

19 (3) Create new incentives and programs to promote
20 alternative energy use;

21 (4) Make recommendations to the legislature on programs,
22 developments and uses for alternative energy.

23 4. The commission, after appropriate study, shall adopt a
24 comprehensive state alternative energy development, production

1 and use guide consisting of policy statements, objectives,
2 standards, and programs. The guide must recognize the community
3 and economic needs, food and agricultural policy, the resources
4 of Missouri, and provide a plan to coordinate and allocate public
5 and private resources to the development and production of
6 alternative energy sources of the state. The commission shall
7 submit the guide to the general assembly by December 31, 2005.

8 5. This section shall expire on June 30, 2006.